DOCUMENT RESUME

ED 087 335 HE 005 138

TITLE	Collective Bargaining at City University? --Issues and Procedures.
INSTITUTION	City Univ. of New York, N.Y.
PUB DATE	[73]
NOTE	8p.
EDRS PRICE	MF-$0.65 HC-$3.29
DESCRIPTORS	*Collective Bargaining; *Collective Negotiation; Elections; *Higher Education; *Negotiation Agreements; Teacher Responsibility; Teacher Welfare; *Unions; Voting
IDENTIFIERS	*City University of New York; CUNY; PERB; Public Employment Relations Board

ABSTRACT

To aid the faculty of the City University of New York (CUNY) in determining if they wish to be represented by either of two exclusive collective bargaining agencies or to maintain professional self-representation is the purpose of this report. Unionization and collective bargaining are relatively new concepts in American education, but being one of the largest state university systems in the country, the results of the City University election are of critical importance. This review covers the significance of the election, the Taylor Law (Public Employees Fair Employment Act), the importance of determining bargaining agents, the possibility of a run-off election, a description of dual voting and collective bargaining, the scope of the bargaining issues, and finally, the importance of every faculty member voting. (Author/PG)

ED 087335

COLLECTIVE BARGAINING AT CITY UNIVERSITY?

—issues and procedures

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HE 005 138

a publication of:
OFFICE OF THE CHANCELLOR
THE CITY UNIVERSITY OF NEW YORK

The Issue

On December 4 and 5 the faculty of our University will vote in an election to determine if they wish to be represented by either of two exclusive collective bargaining agencies or to maintain professional self-representation through internal faculty organizations.

Both legally and morally this is a matter for the faculty alone to determine. Regardless of the outcome, the Board of Higher Education and the administration of the University intend to continue working with the faculty to further our common interest in maintaining a university of true excellence.

The Significance of the Election

Unionization and collective bargaining are relatively new concepts in American higher education. At present there are approximately 70 separate union locals at colleges throughout the country, most of them in New York, California, Illinois, and Michigan. Of the more than 300,000 college faculty members across the country, approximately ten thousand now belong to unions. During the past several years, collective bargaining has been an issue at the California state colleges, the City University of New York, and the State University of New York, the three largest public systems of higher education in the United States. In the California system, a proposal for collective bargaining was defeated by a faculty poll in a narrow vote. The State University of New York is under the juris-

diction of the Public Employment Relations Board (PERB) and will probably have collective bargaining elections before the end of the spring semester.

The results of the City University election, therefore, are of critical importance. They will doubtlessly be cited in attempts to influence sentiment for and against collective bargaining in other institutions. The vote of our University faculty may have a **greater effect upon the future of American higher education than any decision of any university faculty in the past 50 years.** Every faculty member who is eligible to vote should participate in this election.

The Taylor Law

In April 1967 Governor Rockefeller signed into law the Public Employees Fair Employment Act, more commonly known as The Taylor Law. It became effective September 1, 1967, and repealed the Condon-Wadlin Law. The Taylor Law gives public employees the right to be represented by employee organizations of their own choosing and to negotiate collectively with their public employers. The Law also requires public employers to negotiate with their employees and to enter into written agreements with them.

The Taylor Law created PERB to establish procedures for administration and enforcement.

Soon after passage of the Taylor Law, the Legislative Conference of The City University of New York petitioned PERB to be recognized as the exclusive collective bargaining agent for the faculty of City University. The United Federation of College Teachers, Local 1460, American Federation of Teachers, AFL-CIO, entered an intervening petition and also requested recognition as the exclusive collective bargaining agent for the faculty.

The first responsibility of PERB was to determine what constituted an appropriate bargaining unit.

The Appropriate Unit

In determining the appropriate unit, PERB considered recommendations made by the Board of Higher Education, the Legislative Conference, and the United Federation of College Teachers. At hearings held before the PERB trial examiner, the Board of Higher Education requested that all members of the faculty be considered a single unit on the basis of community of interest, responsibilities to the public, and the historic and philosophical integrity of the professional staff of the University. Both the United Federation of College Teachers and the Legislative Conference argued that it was more appropriate to have two separate bargaining units within the University, although each organization disagreed as to how these two units were to be constituted. The PERB trial examiner ruled in favor of a **two-unit concept.** The University appealed this decision to the full PERB board and the decision was upheld by a two to one vote. The University has therefore been declared to consist of two distinct units for the purposes of

determining whether there shall be a collective bargaining agent.

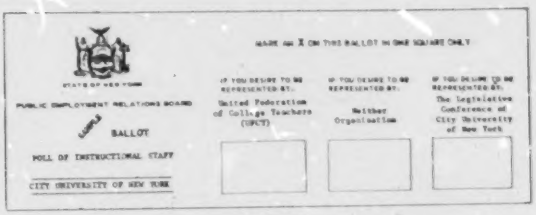
Unit I consists of all members of the permanent instructional staff and all members of the temporary instructional staff on tenure-bearing lines.

Unit II consists of lecturers and teaching assistants.

Administrators are excluded from both units. Specific listings of faculty titles in each unit will be posted at each college prior to the election.

The Determination of Bargaining Agents

In order to determine whether the faculty members in Unit I and Unit II wish to be represented by a collective bargaining agent, and, if so, which collective bargaining agent, the PERB has ordered an election by secret ballot to be held on Wednesday and Thursday, December 4 and 5. At this election, faculty members will mark a ballot like the one shown below.


MARK an X ON THIS BALLOT IN ONE SQUARE ONLY
STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD
BALLOT
POLL OF INSTRUCTIONAL STAFF
CITY UNIVERSITY OF NEW YORK
IF YOU DESIRE TO BE REPRESENTED BY:
United Federation of College Teachers (UFCT)
IF YOU DESIRE TO BE REPRESENTED BY:
Neither Organization
IF YOU DESIRE TO BE REPRESENTED BY:
The Legislative Conference of City University of New York

The Three Choices

By placing an X in the appropriate box, faculty members will indicate either:

(a) that they wish to be represented by the Legislative Conference;

(b) that they wish to be represented by the United Federation of College Teachers; or

(c) that they do not wish to be represented in collective bargaining by either of the contending organizations.

In order for either contending organization to be officially recognized as the collective bargaining agent, or in order for PERB to rule that there shall be no collective bargaining agent, one of the three choices must receive a **majority of all votes cast.**

Run-Off Election

In the event that none of the three choices receives a majority of the valid ballots cast in a unit, there shall be a run-off election for that unit in which the ballot will provide for a selection **between the two choices receiving the largest number of votes in the initial balloting.** Thus, if none of the three choices receives a clear majority on the first ballot, the faculty will be asked to participate in a run-off election in which they may have a choice between the United Federation of College Teachers and No Representative, between the Legislative Conference and No Representative, or between the Legislative Conference and United Federation of College Teachers.

Dual Voting

A substantial number of faculty members who are in Unit I also teach as lecturers dur-

ing the evening sessions and are considered to also have membership in Unit II. PERB has ruled that such individuals are **entitled to vote in both units.**

What Is Collective Bargaining?

> *"Where an employee organization has been certified or recognized . . . the appropriate public employer shall be and hereby is required to negotiate collectively with such employee organization in the determination of and administration of grievances arising under the terms and conditions of employment . . . and to negotiate and enter into written agreements with such employee organizations in determining such terms and conditions of employment."*
> —The Taylor Law

Collective bargaining in the context of industrial negotiations has acquired a specialized meaning, well-established in law and in the rules of the national and state labor relations boards. However, since these labor relations acts do not apply to academic institutions, and the concept of collective bargaining up to this time has gained very little acceptance in American higher education, there is no clear definition of what collective bargaining will mean in a college and university. It is possible, however, based upon the history of collective bargaining in industrial relations, to indicate some of the issues which may be of particular importance to the academic community.

Exclusivity

It is traditional in higher education for boards of trustees and administrators to discuss and negotiate matters of faculty concern with various faculty groups on a college campus. Indeed, at The City University of New York both the Legislative Conference and the United Federation of College Teachers have in the past met with the Chancellor and members of the Board to discuss and influence various matters related to conditions of faculty employment. In addition, other groups of faculty members have met on an ad-hoc basis to discuss special problems, and faculty councils at individual colleges and the University Senate recommend policies directly to the Administrative Council and the Board of Higher Education. These discussions have often resulted in changes of University policy in areas affecting faculty interests.

The concept of exclusivity, however, is generally considered in the industrial sector to be an important pre-condition for the development of bargaining relationships. Both contending organizations in the City University election have indicated that they wish to be considered exclusive bargaining agents. If a bargaining agent is chosen by the faculty, and that agent obtains an exclusive right of representation, the Board and administration of the University will be **precluded by law** from negotiating with any faculty groups, agencies, or individuals except the organization designated as exclusive bargaining agent.

Scope of Bargainable Issues

The Taylor Law provides that "public employees shall have the right to be represented by employee organizations to negotiate collectively with their public employers in the determination of their terms and conditions of employment and the administration of grievances arising thereunder." Although it is commonly thought that "terms and conditions of employment" refer almost exclusively to economic conditions, this phrase has been developed in industrial bargaining to cover almost every aspect of the employer-employee relationship.

Since those issues which are bargainable can only be determined through bargaining itself, it is difficult to indicate at this point exactly which issues a collective bargaining agent would consider to fall under its purview. It is clear, however, that in some cases the demands of collective bargaining agents may be inconsistent with the traditions of college teaching as a profession. For example, one organization which represents the faculty of a two-year college (not part of City University) included in its bargaining demands the establishment of a promotion system based on seniority under which all individuals would be automatically promoted from rank to rank until the top line of professorial salary schedule is reached. The system of promotion by seniority is of course incompatible with the traditional academic system of promotion based on the professional evaluation of one's peers.

The effects of exclusive collective bargaining upon such matters as faculty recruitment is difficult to determine. On one hand, a prominent scholar of labor relations has stated, "The image of a trade-union-minded faculty may cause leading scholars or aspiring young candidates for junior positions to avoid association with the university both because of social bias and a fear of no opportunity for recognition . . ."

On the other hand, proponents of unionization state that collective bargaining will assist faculty recruitment by providing guarantees of employment conditions and equitable treatment which only a strong exclusive collective bargaining agency can provide.

Collective bargaining then may therefore result in profound changes in the structure of American higher education in general and the City University in particular as they have developed over the past century. Whether such changes will prove beneficial or detrimental to the faculty is a value judgment which must be left for each faculty member to decide.

Employer-Employee Relationship

Collective bargaining as defined in industry brings together in an adversary proceeding two parties with well-defined objectives. Traditionally, in higher education there is a community of shared interest and shared grievance which overrides the industrially oriented management-labor schism. Particularly in publicly supported universities, the faculty,

administrations and trustees have usually acted in concert to obtain more funds for higher education from the elected officials who have the ultimate authority in the allocation of these public resources. It is as unusual to find faculty members who consider themselves employees as to find administrators who consider themselves to be management. Indeed, in most institutions of higher education as in the City University, **the faculty now makes many decisions which in industrial situations are considered prerogatives of management.** They hire, fire, and promote their fellow professionals and have the major responsibility both for the activities of their students as well as the educational program which is the primary reason for the existence of the institution.

Those who favor collective bargaining believe that the apparent community of shared interest and the establishment of supposedly collaborative relationships between faculty and administrative groups are merely manipulative devices used by the administration to minimize real faculty power. They argue that unionization, the right to collective bargaining, and the institutionalization of an adversary relationship are the only means by which the faculty can establish a genuine power base. This position argues that within collective bargaining lies the essence of true professionalism, since it will lead to greater authority of the faculty in managing their professional affairs.

The countervailing position is represented

by the policy on representation of economic interest of the **American Association of University Professors.** The AAUP believes that exclusive collective bargaining does not offer a satisfactory system for the representation of faculty economic interests, since in their opinion it imposes an industrial-type adversary relationship alien to a college community.

The AAUP in its 1968 statement of policy on Representation of Economic Interests recommends that faculty members,

> *"in decisions relating to the protection of their economic interests, should participate through structures of self-government within the institution, with the faculty participating either directly or through faculty-elected councils or senates. As integral parts of the institution, such councils or senates can effectively represent the faculty without taking on the adversary and sometimes arbitrary attitudes of an outside representative... The Association will therefore oppose legislation imposing upon faculty members in higher education the principle of exclusive representation derived from models of industrial collective bargaining. When legislation of this character exists or is proposed, the Association will rather support measures that will encourage institutions of higher education to establish adequate internal structures of faculty participation in the government of the institution."*

Union Membership

Under the Taylor Law, public employees have the right to refrain from joining an employee organization even if that organization is certified by PERB as being the exclusive bargaining agent. The Taylor Law, however, does not preclude the establishment of an agency shop in which all non-members of the representative organization would be required to pay a fee equivalent to yearly membership dues to be turned over to the representative organization for its use. The establishment of an agency shop would be subject to negotiations by the representative organization.

The Importance of Voting

There are approximately 4,500 faculty members in Unit I and 6,000 in Unit II. PERB will certify the election in each unit on the basis of the choice receiving a majority of all valid ballots cast, regardless of how many faculty eligible to vote actually do so. It is therefore possible, as in other elections, for a relatively well-organized minority to make a decision that will vitally affect every member of the instructional staff. In order for the outcome of the election to truly reflect faculty opinion, each and every faculty member should participate in this important election.